DOCUMENT RESUME

ED 310 610 EC 221 020

AUTHOR DeStefano, Lizanne; Snauwaert, Dale
TITLE A Value-Critical Approach to Transition Policy Analysis.
INSTITUTION Illinois Univ., Champaign. Secondary Transition Intervention Effectiveness Inst.
SPONS AGENCY Special Education Programs (ED/OSERS), Washington, DC.
PUB DATE 89
CONTRACT 300-85-0160
NOTE 84p.
PUB TYPE Reports - Evaluative/Feasibility (142) -- Viewpoints (120)

EDRS PRICE MF01/PC04 Plus Postage.
DESCRIPTORS *Disabilities; *Education Work Relationship; *Government Role; Interdisciplinary Approach; Public Policy; Secondary Education; *Special Education; Transitional Programs; Trend Analysis; *Values; *Vocational Rehabilitation

ABSTRACT

The monograph examines the roles of the two federal policy units, special education and vocational rehabilitation, that have the greatest impact on the initiative to improve services to disabled students in their transition from school to work. Chapter 1 is devoted to a discussion of the two methodologies used in the study: the value-critical approach to policy analysis and legislative history. Chapter 2 presents the legislative history of special education. Chapter 3 discusses briefly the federal disability policy system and presents a legislative history of vocational rehabilitation. Chapter 4 considers the interaction between special education and vocational rehabilitation from a value-critical perspective. It is argued that there exists a value conflict between the two systems that jeopardizes the transition initiative. A fundamental conflict in the transition policy system is seen between the values of equality and efficiency. Because of this, special education must assume the responsibility for transition. Reliance upon the adult service system as an intermediary link in transition must be minimal. Court action to secure adult services will probably increase but it is questionable whether such mandates will be implemented given the political and fiscal climate. (DB)

**********
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
**********

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☑ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

ED310610

# A Value-Critical Approach to Transition Policy Analysis

Lizanne DeStefano
Dale Snauwaert

EC 220220

TRANSITION INSTITUTE AT ILLINOIS



BEST COPY AVAILABLE

The following principles guide our research related to the education and employment of youth and adults with specialized education, training, employment, and adjustment needs.

- Individuals have a basic right to be educated and to work in the environment that least restricts their right to learn and interact with other students and persons who are not handicapped.
- Individuals with varied abilities, social backgrounds, aptitudes, and learning styles must have equal access and opportunity to engage in education and work, and life-long learning.
- Educational experiences must be planned, delivered, and evaluated based upon the unique abilities, social backgrounds, and learning styles of the individual.
- Agencies, organizations, and individuals from a broad array of disciplines and professional fields must effectively and systematically coordinate their efforts to meet individual education and employment needs.
- Individuals grow and mature throughout their lives requiring varying levels and types of educational and employment support.
- The capability of an individual to obtain and hold meaningful and productive employment is important to the individual's quality of life.
- Parents, advocates, and friends form a vitally important social network that is an instrumental aspect of education, transition to employment, and continuing employment.

---

The Secondary Transition Intervention Effectiveness Institute is funded through the Office of Special Education Programs, Office of Special Education and Rehabilitative Services, U.S. Department of Education (contract number 300-85-0160).

**Project Officer: William Halloran**

*For more information on the Transition Institute at Illinois, please contact:*

Dr. Frank R. Rusch, *Director*
College of Education
University of Illinois
110 Education Building
1310 South Sixth Street
Champaign, Illinois 61820
(217) 333-2325

Merle L. Levy, Publications Editor

# A VALUE-CRITICAL APPROACH TO TRANSITION POLICY ANALYSIS

Lizanne DeStefano

and

Dale Snauwaert

Secondary Transition Intervention Effectiveness Institute

University of Illinois at Urbana-Champaign

© 1989 by the Board of Trustees of the University of Illinois.

CONTENTS

1. Introduction . . . . . 1

2. Legislative history of Special Education . . . . . 11

3. Federal disability policy . . . . . 37

4. Policy implications in a value-critical analysis of special education and vocational rehabilitation . . . . 63

References . . . . . 73

Appendix: Glossary of key federal statutes affecting special education and rehabilitation . . . . . 76

# Chapter One

# INTRODUCTION

In 1983, the U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS), initiated a national effort to provide interventions that would facilitate the transition from school to work for youth with handicaps exiting public education. This initiative was based on the discovery that a large percentage of the 250,000 to 300,000 youth with handicaps who exit public education each year encounter significant barriers in making a transition to work and would not achieve a successful transition unless there was a concentrated effort to identify and introduce interventions that would lead to their employment (CCSSO, 1986; NASDSE, 1986; Rusch & Phelps, 1987).

The transition initiative gained widespread legitimacy when Congress authorized funding to support transitional services for youth with handicaps under the Education of the Handicapped Act Amendments of 1983, P.L. 98-199, Section 626. The objective of Section 626 was to strengthen and coordinate education, training, and related services to assist youth with handicaps in the transitional process and to stimulate the improvement and development of secondary special education programs.

The overarching objective of the transition initiative has been the attainment of gainful employment, coupled with the capacity to live, socialize, and engage independently in community life. According to the OSERS model, transition is an intermediary phase in the school-to-work continuum, a phase that necessarily involves the services

provided by a variety of agencies. For the majority of youth with handicaps a successful transition to gainful employment and independent living will depend not only upon special education service delivery, but upon policy and service delivery in many related service systems.

An example of the complex nature of the policy-related transition can be seen in the actions of the 98th and 99th Congresses.

The OSERS initiative and the transition provisions enacted by the 98th Congress were followed and complemented by the employment initiative for individuals with handicaps enacted by the 99th Congress. This initiative included expanded provisions for transitional services, coupled with the removal of work disincentives in social security law, employer incentives in the form of targeted job tax credits, counseling services and vocational education programs for youths, supported employment, and removal of unfair wage practices under the Fair Labor Standards Act Amendments of 1986.

Based on a review of recent legislation, we have identified eight policy units that affect transition (see Table 1): special education, vocational rehabilitation, vocational education, social security, labor, civil rights, tax revisions, and budget reconciliation. Because of the large scope of the policy system these eight units constitute, the focus of this study is confined to only two of these eight units: special education and vocational rehabilitation. Although the other units have a profound influence on the success of the transition initiative, special education and vocational rehabilitation were chosen as the primary service agencies responsible for preparing individuals with handicaps for employment and independent living. Other policy areas will be considered in subsequent analyses.

Table 1. Federal Policy Units and Legislation Affecting Transition

| Policy Unit | Legislation |
|---|---|
| Budget Reconciliation | Cobra (P.L. 99-272; P.L. 98-270; P.L. 97-35) |
| Rehabilitation | Rehabilitation Act Amendments of 1986 (P.L. 99-506)<br>Rehabilitation Act of 1973 (P.L. 93-112) |
| Civil Rights | Rehabilitation Act of 1973, Sections 503 and 504 (P.L. 93-112)<br><br>DD Assistance and Bill of Rights Act Amendments of 1986 (P.L. 98-527) |
| Vocational Education | Carl D. Perkins Vocational Education Act Amendments of 1986 (P.L. 99-159) |
| Special Education | Education of the Handicapped Act (P.L. 99-457; P.L. 98-199)<br>Education for All Handicapped Children Act (P.L. 94-142) |
| Social Security | SSI Improvements Act of 1986 (P.L. 99-643; work incentives provisions) |
| Labor | Fair Labor Standards Act Amendments of 1986 (P.L. 99-486)<br>Job Training Partnership Act Amendments of 1986 (P.L. 99-496) |
| Tax Reform | Tax Reform Act of 1986 (P.L. 99-514)<br>Targeted Jobs tax credit<br>Barrier removal tax credit |

The purpose of this monograph is twofold:

1. to provide a deeper understanding of the two federal units, special education and vocational rehabilitation, that have the greatest impact on the transition initiative;
2. to analyze the implications for transition which emanate from the interaction of these two units.

The research questions that were posed in order to fulfill these purposes are:

1. What are the forces that shape the two policy units?
2. Is the transition initiative consistent with these forces?
3. Is the interaction between special education and vocational rehabilitation policy coherent? If not,
4. What are the implications for transition?

The monograph is divided into four chapters. Chapter 1 is devoted to a discussion of the two methodologies used in the study: the value-critical approach to policy analysis and legislative history. Chapter 2 presents the legislative history of special education. Chapter 3 discusses briefly the federal disability policy system and presents a legislative history of vocational rehabilitation. Chapter 4 discusses the interaction between special education and vocational rehabilitation from a value-critical perspective. It is argued that there exists a value conflict between the two systems that jeopardizes the transition initiative.

## Method

### A Value-Critical Approach to Policy Analyses

In our analysis of two systems, special education and vocational rehabilitation, that affect transition, we have combined two complementary techniques: the value-critical approach and legislative history. It is our hope that these techniques will provide a rich data set to answer the four questions of interest in this study.

In essence, a value-critical approach to policy analysis is devoted to the critical examination of the values that underlie and guide public policy (Rein, 1976). In general, policy analysis can be thought of as a method of generating policy alternatives for selection by public officials. The purpose of policy analysis is the production of arguments that provide sound reasons for the adoption of particular policies. Being arguments, they are composed of premises from which conclusions are derived. The soundness of a policy argument is contingent upon the validity of both its empirical and normative premises (Paris & Reynolds, 1983). Empirical premises are primarily concerned with how effective a policy alternative is in meeting its goals. However, in a democracy, public policy is seldom selected solely on the basis of effectiveness (i.e., empirical premises). Often political values (normative premises) enter the equation, profoundly affecting policy selection.

Historically, three basic values have shaped the nature and selection of public policy in various areas of concern in the United States: equality, efficiency, and liberty (Guthrie, 1980; Rein, 1976). For example, the pursuit of liberty has given rise to a number of pieces of legislation devoted to the protection of civil rights.

The pursuit of efficiency has given rise to a number of pieces of legislation designed to increase employment among welfare recipients. And the pursuit of equality has given rise to a number of pieces of legislation devoted to increasing equal opportunity. Later chapters of this monograph will be devoted to illustrating how the values of equality and efficiency have shaped policy in special education and vocational rehabilitation.

From the perspective of the value-critical approach, policies are interdependent systems composed of three dimensions: (1) abstract values, (2) operating principles that give these values form in specific programs and administrative arrangements, and (3) the outcomes of these programs (Rein, 1976). For example, the special education policy system may be characterized in this way:

| Values | Operating Principles | Outcomes |
|---|---|---|
| equality | due process, mainstreaming | high % of students with handicaps served in integrated settings |

From this perspective, public policy is value driven. The abstract values that are adhered to determine which policy is enacted and eventually which outcomes are achieved.

The value-critical approach to policy analysis not only identifies but subjects the value dimension of public policy to critical examination. It asks: Is the pursuit of a given value justifiable, given the human demands of the situation?

In this chapter we will be concerned with two values that have shaped special education and vocational rehabilitation policy: equality and efficiency.

As a political value, equality is closely associated with the notion of "rights," both moral and legal. A right is an entitlement that confers authority to demand certain social goods, those goods being morally self-evident in relation to the dignity of human life (McCloskey, 1984). Basic, self-evident rights include, for example, the right to life, respect for one's moral autonomy, and the right to self-development and thus to education. Such moral rights become legal entitlements when the value of equality is pursued in public policy. The value of equality is the moral position that the basic rights of all persons should be respected. When this value is realized in the public domain, basic moral rights are guaranteed by law; that is, they become legal entitlements.

The value of efficiency, on the other hand, is based upon the notion of utility. Efficiency is generally defined in terms of the ratio between costs and benefits. That which produces the most benefit for the least cost is efficient. A policy system driven by the value of efficiency will seek to maximize aggregate utility or benefits. Such a system is not concerned with guaranteeing individual rights; its concern is with producing the maximum benefit for the society as a whole, regardless of how the benefits are distributed.

## Legislative History

How do we know which value is driving the policy system with which we are concerned? To answer this question we need to examine the nature of the policy process.

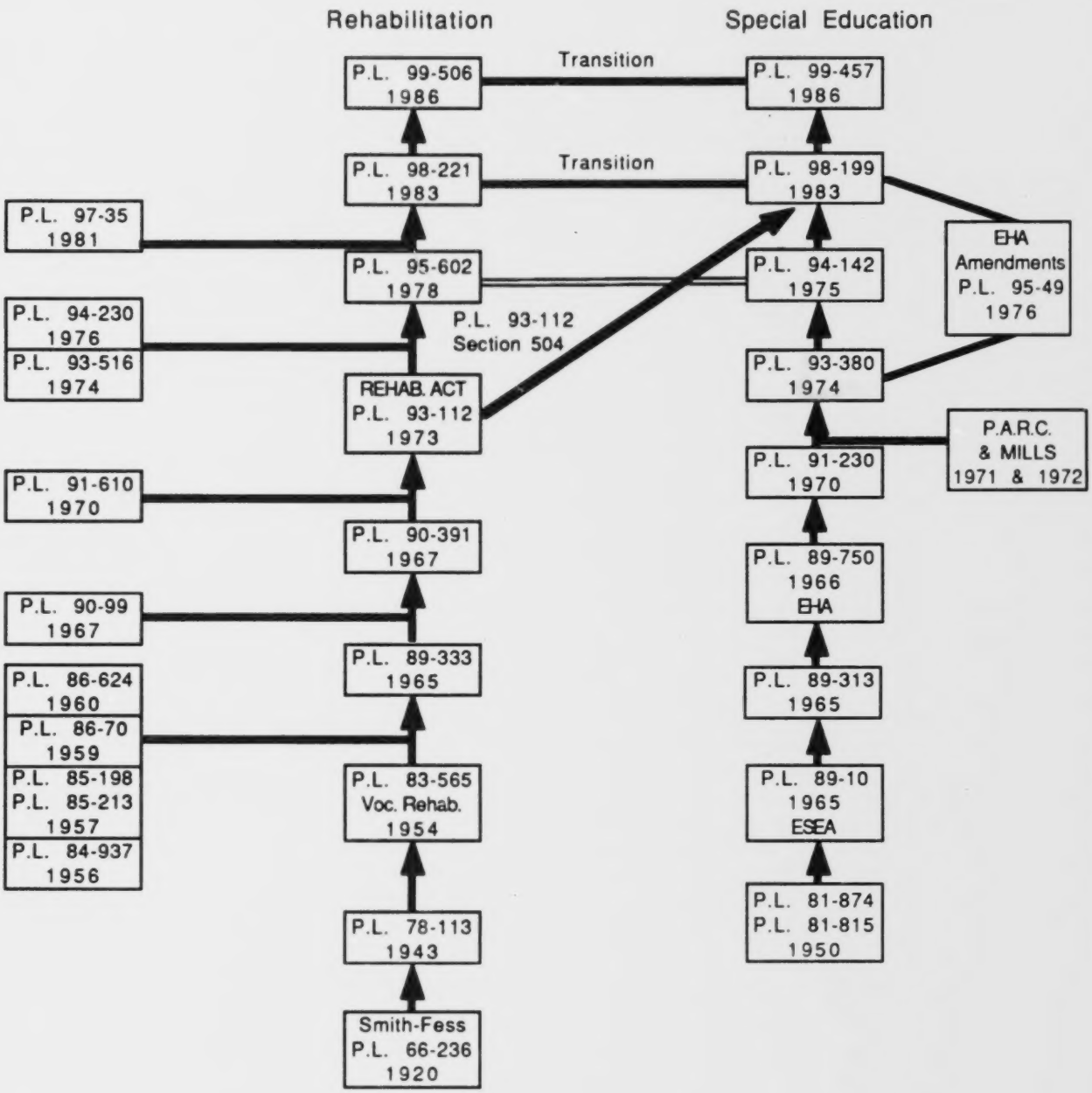
Current policy is usually an incremental adjustment to previously formulated policy (Braddock, 1987; Lindblom, 1959). Because of resource constraints and the nature of democratic politics (i.e., the give and take between various interests), comprehensive planning is not practiced in government. Rather, modest alterations of the status quo are enacted that are designed to ameliorate rather than eradicate problems. This incremental policy process is summarized succinctly by Braddock (1987):

> Government programs are rooted in the past. Federal programs are rarely created totally anew, but rather are usually grafted to existing statutory and administrative structures. To understand current federal policy . . . one must be familiar with the historical record of myriad individual federal . . . program elements, and one must also appreciate each individual element's relation to its programmatic environment, its fiscal context, and its legislative history. (p. 1)

As this quotation implies, an understanding of a particular policy system is contingent upon an understanding of its legislative history. The legislative history of a policy system reveals particular trends or patterns which are indicative of particular underlying values. Values are realized (actualized) in public policy through incremental steps which form historical patterns. The identification of these patterns is a means to verify the values that drive a given policy system. Therefore, when dealing with policy governed by legislative intent, legislative history is essential to a value-critical understanding.

In the next two chapters, legislative history of special education and federal disability policy will be developed in an effort to identify those critical values that have shaped policy development in each area. Figure 1 presents a parallel history of those two areas. A glossary of relevant legislation is presented in the Appendix.

Figure 1. The Legislative History of Special Education and Vocational Rehabilitation



# Chapter Two

## A LEGISLATIVE HISTORY OF SPECIAL EDUCATION

Education as a social institution has many purposes, but it can be argued that its overarching goal is to assimilate the next generation into the mainstream of society; in the final analysis, its central purpose is integration. Schools facilitate integration in three important ways: (a) through socialization into the values and mores of the culture, (b) through political socialization, and (c) through training for particular economic and occupational roles. In a complex society such as that of the United States, assimilation is virtually impossible without formal education.

In the history of American education certain groups have been denied access to equal educational opportunities. This denial has for the most part been based upon racial and ethnic discrimination on the one hand, and physical and mental disability on the other. The denial of equal educational opportunity has meant that ethnic and racial minorities and individuals with handicaps historically have not been integrated into the mainstream of American life.

In response to this segregation the history of federal special education legislation has been an attempt to integrate children with handicaps into normal community life by providing equal educational opportunities. The effort to integrate children with handicaps into public education and eventually into normal community life is based upon the value of equality, the desire to see that everyone has an equal chance in life. Unfortunately data have shown that entitlement to a public education does not automatically lead to either normal

opportunities for employment and community integration, or needed adult services (Harris & Assoc., 1986; Hasazi, Gordon, & Roe, 1985; Mithaug & Horiuchi, 1983; Wehman, Kregel, & Seyforth, 1985).

A number of studies have tracked and analyzed existing data on students with handicaps leaving secondary education institutions. In these studies it was commonly found that special education students face an inadequate array of employment, education, and independent living options. They encountered waiting lists for adult services and community living arrangements. Instances of significant problems with funding and actual exclusion from services were common occurrences as students moved from the mandated services of public education to an adult service system based on eligibility.

Further, the problem did not end once adult services were accessed. A high percentage of those adults with handicaps who did gain entry into publicly supported day and vocational services experienced low wages, slow movement toward employment, and segregation from nondisabled peers (Bellamy, Rhodes, Bourbeau, & Mank, 1986; U.S. Department of Labor, 1979).

Clearly, the emphasis of special education legislation upon integration of persons with handicaps into the mainstream of society and the mandate of educational services aimed at maximizing independence for everyone had little meaning if students continued to transition into a life of dependence and segregation. In the 98th and 99th Congresses, the federal government recognized that currently existing special educational services were not enough to ensure a successful transition for handicapped youths. Legislation was enacted to develop and implement interventions that would facilitate

transition. It will be argued in this section that this development is a historical manifestation of the underlying value of special education legislation--equality.

A Historical Analysis

Federal legislation affecting special education has its roots in the Elementary and Secondary Education Act of 1965 (P.L. 89-10), in that this act forms the basis upon which all subsequent special education legislation is grafted. P.L. 89-10 was signed into law by Lyndon Johnson on April 11, 1965 as a part of his War on Poverty. In general, the purpose of this Act was to strengthen and improve educational quality and opportunity in the nation's elementary and secondary schools, especially for schools in economically underprivileged areas. Historically, P.L. 89-10 is rooted in P.L. 874 enacted on September 30, 1950 (P.L. 89-10 amends P.L. 874). PL 874 established a grant-in-aid program to the states to assist financially local educational agencies (LEAs) burdened by federal activities. Established in the precedent set by P.L. 874 of providing federal assistance to the states, Title I of P.L. 89-10 authorized "financial assistance to local educational agencies serving areas with concentrations of children from low income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children" (Sec. 201).

Title II of this Act authorized funding for the acquisition of school library resources, textbooks, and other instructional materials. Title III authorized grants for "supplementary educational

centers and services, to stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school educational programs to serve as models for regular school programs" (Sec. 301). Title IV authorized grants to provide for educational research and training, and Title V authorized funding to strengthen state departments of education.

In the entire statute there were only two provisions directed to help students with handicaps: (1) Sec. 303(b) (4) of Title III authorized funding for "specialized instruction and equipment . . . for persons who are handicapped," and (2) Sec. 503(a) (10) of Title V authorized funding for "consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped [among other groups]."

P.L. 89-10 was the first substantial attempt in the history of American education to redress the inequality in educational opportunity of minority and poor children. As a part of Lyndon Johnson's War on Poverty and Great Society program, it was an attempt to integrate into the mainstream of American life those groups who had traditionally been excluded. Equality of educational opportunity was thought to be the key in solving the unacceptable level of stratification in the United States. Its enactment was a substantial victory for the Civil Rights Movement.

It is apparent that P.L. 89-10 was intended to compensate for the educational deprivation of <u>economically</u> underprivileged students and

not to redress the educational deprivation of children with handicaps. However, the enactment of P.L. 89-10 was extremely important for special education, for it set a legislative precedent for the establishment of a massive federal grant program targeted at improving the education of a specific underserved group. In other words, P.L. 89-10 provided the basis upon which subsequent legislation, directed specifically at the education of children with handicaps, could be drafted.

On November 1, 1965, eight months after the passage of P.L. 89-10, P.L. 89-313 was enacted. The purpose of the Act was to amend P.L. 815 and P.L. 89-10. Sec. 203(a) of P.L. 89-10 was amended to include a new paragraph (5). Paragraph (5) authorized grants to state-operated or state-supported schools devoted to the education of children with handicaps ("including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education"). These funds were intended to create programs and projects designed to meet the special education needs of children with handicaps housed in state-operated schools, including classroom instruction, physical education, mobility training, counseling, prevocational and vocational education, teacher training, and training for teachers' aides (Braddock, 1987, p. 34). P.L. 89-313 authorized funding on the basis of the number of eligible children with handicaps multiplied by the state average per capita expenditure for all children enrolled in elementary and secondary schools. With the provisions of paragraph (5), the first substantial federal grant-in-aid

program specifically targeted at the educational needs of children with handicaps was established.

A year later, on November 3, 1966, P.L. 89-10 was amended by P.L. 89-750 to include a new Title VI. The purpose of Title VI was to assist "the states in the initiation, expansion, and improvement of programs and projects . . . for the education of handicapped children at the preschool, elementary and secondary school levels" (Sec. 601(a)). Children with handicaps were defined to include "mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, crippled, or other health impaired children who by reason thereof require special education and related services" (notice the addition of related services, emphasis added; Sec. 602). What comprises "related services" is never specified in the law. However, the concept implies that provisions beyond the narrowly educational within the school context were to be provided; that is, provisions that support the special education of children with handicaps, such as psychological services, testing, and transportation, were authorized.

In order to receive funding, section 604 required state educational agencies (SEAs) to submit detailed plans that would (a) assure that the funding allotted be expanded, either directly or indirectly through LEAs, solely for educational programs for children with handicaps, and (b) that the federal funds allotted would be used to supplement and in no case supplant state, local, or private funds. This section also stipulated that funding under this title be used by locally operated schools, whereas P.L. 89-313 was intended to provide funding for state-operated schools.

Thus, P.L. 89-750 established the first federal grant-in-aid program for the education of children with handicaps at the local school level rather than at state-operated sites. In doing this, P.L. 89-750 set a precedent for educating such children in schools where "normal" children were being educated, thereby laying the foundation for mainstreaming, for integrating children with handicaps into the general population, first in schools and eventually into the community.

An integral part of this attempt to assimilate children with handicaps into the mainstream was the establishment of a Bureau for Education and Training of the Handicapped (BEH) within the Office of Education and the establishment of the National Advisory Committee on Handicapped Children (NAC). BEH was designated as the principal agency for administering educational programs and projects for children with handicaps (Sec. 609). The purpose of NAC was to review the administration and operation of P.L. 89-750 and P.L. 89-313 with respect to children with handicaps, and to make recommendations for improving such administration and operation (Sec. 608).

The establishment of NAC and BEH were strategically important for the special education lobby. The establishment of NAC provided a legislatively legitimate oversight entity for the evaluation and modification of special education policy and, in its oversight capacity, a potential mechanism for ensuring coordination of services to children with handicaps. The establishment of BEH created a specific entity within the executive branch for the administration of special education legislation. Because many proposals introduced in Congress emanate from the various agencies of the executive branch (Kernochan, 1981, p. 11), the establishment of BEH was important for

two reasons: (a) it forced consideration of special education legislation into the educational jurisdiction of Congress rather than the health jurisdiction, and (b) it laid the foundation for the expansion of provisions for the education of children with handicaps which were to follow in the form of the Education of the Handicapped Act and the Education for All Handicapped Children Act.

On January 2, 1968, Title VI of P.L. 89-750 was amended by P.L. 90-247, which established a set of discretionary programs. Funding was authorized to establish and operate regional resource centers whose purposes were to "(1) provide testing and educational evaluation to determine the special education needs of handicapped children referred to such centers, (2) develop educational programs to meet those needs, and (3) assist schools and other appropriate agencies, organizations, and institutions in providing such educational programs through services such as consultation [including consultation with parental, periodic reexamination and reevaluation of special education programs, and other technical services (Sec. 606(b))." Funding for regional resource centers was authorized at $7.5 million for FY 1968, $7.75 million for FY 1969, and $10 million for FY 1970.

P.L. 90-247 also provided funding for centers and services for deaf-blind children; $1 million for FY 1968, $3 million for FY 1969, and $7 million for FY 1970 were authorized for this purpose (Sec. 609). In addition, funding to help improve recruiting of education personnel to work with children with handicaps and to improve dissemination of information concerning education opportunities for such children was authorized at $1 million for FY 1968 (Sec. 610). P.L. 90-247 also authorized funding for the expansion of instructional

media programs in order to include all children with handicaps (Sec. 615), and authorized $14 million for FY 1969 and $18 million for FY 1970 for contracts and grants for research in education of children with handicaps (Sec. 156).

With the authorization of regional resource centers, centers and services for deaf-blind children, funding for personnel recruitment and information dissemination, the expansion of instructional media for children with handicaps, and funding for research in educating children with handicaps, P.L. 90-247 established a set of programs, which would later be known as "discretionary," that provided a wide array of provisions that supplemented and supported the expansion and improvement of special education. With the exception of the main funding authorizations stipulated in Part A of P.L. 91-230, Part B of P.L. 93-380, and P.L. 94-142, all of the subsequent special education legislation, including P.L. 98-199 and P.L. 99-457 which provide transition services, amend these discretionary programs.

On April 13, 1970, P.L. 91-230, entitled the Education of the Handicapped Act, was enacted to amend Title VI of P.L. 89-750 (as amended by P.L. 90-247). This Act authorized a major expansion of programs, services, and funding dedicated to redressing the educational deprivation of children with handicaps. At its core was a major grant-in-aid program to the states for improving special education; this basic grant program was spelled out in Part B. In addition, there was authorization of an expansion of discretionary programs stipulated in Parts C through G.

Part C reauthorized the provisions for regional resource centers and centers and services for deaf-blind children, along with provisions

for early education for children with handicaps (Sec. 623), and an increase in provisions for research, innovation, training, and dissemination activities in connection with centers and services for such children (Sec. 624). Funding authorizations for these purposes were substantially increased to $36.5 million for FY 1971, $51.5 million for FY 1972, and $66.5 million for FY 1973.

Part D expands the provisions for the training of special education personnel. It authorizes grants to institutions of higher education and other appropriate agencies for teacher and other specialist training (Sec. 631). Section 632 authorizes grants to stated education agencies for teacher training, and section 633 reauthorizes projects for the dissemination of information concerning education opportunities for children with handicaps and the recruitment of educational personnel. The funding to carry out the provisions of this part was authorized at $69.5 million for FY 1971, $87 million for FY 1972, and $103.5 million for FY 1973.

Part E expands the provisions for educational research stipulated in Section 156 of P.L. 90-247. It authorizes research and demonstration projects in special education (Sec. 641), research and demonstration projects for physical education and recreation (Sec. 642), and the establishment of a panel of experts to evaluate these projects. Funding for these purposes was authorized at $27 million for FY 1971, $35.5 million for FY 1972, and $45 million for FY 1973.

Part F expands the provisions for providing instructional media, and establishes a National Center on educational media and materials. Funding for these provisions was authorized at $12.5 million for FY 1971, $15 million for FY 1972, and $20 million for FY 1973.

In Part A of Title VI, "learning disabilities [a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations] (Sec. 602(15))" were first recognized as a handicapping condition.

With the inclusion of learning disabilities as a handicapping condition, P.L. 91-230 authorized in Part G special programs for children with specific learning disabilities. It authorized research projects, professional or advanced training for educational personnel to work with children with learning disabilities, the establishment and operation of model centers to improve education for children with learning disabilities. Funding for these provisions was authorized at $12 million for FY 1971, $25 million for FY 1972, and $31 million for FY 1973. In addition, both BEH and NAC were reauthorized without revision (Sec. 603 and 604). In all, Title VI of P.L. 91-230 laid the foundations for the enactment of The Education for All Handicapped Children Act of 1975, and it remains the basis of federal policy toward special education.

On August 21, 1975, P.L. 93-380 was enacted to amend P.L. 91-230. Title VI, Part B, of P.L. 93-380 was entitled The Education of the Handicapped Amendments of 1974. (It is important to note here that P.L. 89-750, P.L. 90-247, P.L. 91-230, and P.L. 93-380 all amended P.L. 89-10, The Elementary and Secondary Education Act of 1965. See Appendix.) Title VI, Part B, of P.L. 93-380 reauthorizes grants to the states for financial assistance in the initiation, expansion, and improvement of programs for special education at the preschool,

elementary, and secondary levels "in order to provide full educational opportunities to all handicapped children" (Sec. 611(1)). (Notice the inclusion of full educational opportunities to all handicapped children.) In P.L. 93-380 there begins the focus on fully educating all children with handicaps. Actually this is its first appearance in legislation; however, equal educational opportunity was on the agenda of the special education lobby as early as 1965. This language represents the first legislative emphasis on providing educational services to all children with handicaps that would shortly lead to the mandate of P.L. 94-142.

The Senate Subcommittee on the Handicapped received four bills for consideration as P.L. 93-380: (1) S. 896 proposed to extend P.L. 91-230 for three more years and to upgrade BEH by adding four senior positions; (2) S. 34 proposed funding for research on autistic children; (3) S. 808 proposed funding to screen primary school children in order to identify specific learning disabilities; and (4) S. 6 mandated the availability of a free appropriate education for all handicapped children. S. 896 became P.L. 93-380, but even though the mandate of S. 6 did not become law as P.L. 93-380 (it was to become the foundation of P.L. 94-142), its intent was manifested in at least the language of P.L. 93-380. This language is a signpost along the path toward greater equality. Sec. 613 stipulates that state applications for special education funding must assure that all children residing in the state "regardless of the severity of their handicap, who are in need of special education and related services are identified, located and evaluated, including a particular method of determining which children are currently receiving needed special education and related

services and which are not. . . ." The state plan was also to establish "(i) a goal of providing full educational opportunities to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the state to meet such a goal (Sec. 615(c))."

Part C of P.L. 91-230 was amended to authorize the establishment and operation of "specially designed or modified programs of vocational, technical, postsecondary, or adult education for deaf or other handicapped persons (Sec. 625(a))." Grants for this purpose were to be made to institutions of higher education, including community colleges, vocational and technical institutions, and other appropriate educational agencies. This section was authorized at $1 million for FY 1975 and "such sums as may be necessary for each of the two succeeding fiscal years" (Sec. 617).

Regional resource centers, centers and services for deaf-blind children, and programs for early special education under Part C of P.L. 91-230 were all reauthorized. Funding for these programs was authorized at $54 million for FY 1975, $74 million for FY 1976, and $75 million for FY 1977, representing about the same level of funding for these programs as was authorized under P.L. 91-230.

On the whole, funding for special education authorized under P.L. 93-380 fell 46%, from $1,266.5 million authorized by P.L. 91-230 to $686 million. However, P.L. 94-142 was on the horizon; it would be enacted a year and a half later and would provide a major federal grant program to the states for providing full educational opportunities for

all children with handicaps. What P.L. 93-380 provided was a substantial continuation of discretionary programs.

On November 29, 1975, P.L. 94-142, The Education of all Handicapped Children Act of 1975, was signed into law by Gerald Ford. It represents to this day the major federal funding mechanism for special education. It amended The Education of the Handicapped Act, becoming Part B of that Act. The purpose of P.L. 94-142 was fourfold: (1) to assure that all handicapped children had available to them a "free appropriate education"; (2) to assure that the rights of children with handicaps and their parents or guardians were protected (e.g., the right of due process, procedural safeguards in the assessment, placement, and evaluation process); (3) to provide financial assistance to state and local governments in providing full educational opportunities to all children with handicaps; and (4) to assess and assure the effectiveness of special education (Sec. 3).

In order to assure that all children with handicaps would be served, P.L. 94-142 mandated, via its eligibility requirements for funding, that each state meet a specific timetable for providing educational services to such children. This timetable stipulated that "a free appropriate public education will be available for all handicapped children between the ages of 3 and 18 within the state not later than September 1, 1978, and for all handicapped children between the ages of 3 and 21 within the state not later than September 1, 1980" (Sec. 612 (2) (B)). In addition, it was stipulated that this timetable be met "first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children,

within each disability, with the most severe handicaps who are receiving an inadequate education" (Sec. 612(3)).

In order to meet this goal, the states needed compensatory funding over and above what was already being provided under The Education of the Handicapped Act to cover the excess costs of special education and related services. Consequently, P.L. 94-142 authorized a major increase in funding to the states.

Under the stipulated entitlement formula (Sec. 611(a)(1)), the maximum a state is entitled to in any fiscal year is equal to the number of children with handicaps ages 3 to 21 multiplied by a percentage of the average per-pupil expenditure in the United States. The percentage to be used in the formula was stipulated as follows: 5% for FY 1978, 10% for FY 1979, 20% for FY 1980, 30% for FY 1981, and 40% for FY 1982 and each fiscal year thereafter. Under this formula a minimum was set at what a particular state received in FY 1977. The states were limited in their count of children with handicaps to 12% of the number of all children ages 5 to 17 inclusive in a state (Sec. 611(a)(5)(A)). The funds authorized under the provisions of P.L. 94-142 were stipulated to meet the excess costs of providing special education and related services, that is, to supplement rather than supplant state and local funds.

In order to assure that the education provided to each student with handicaps was appropriate, "individualized education programs" (IEP) were introduced. This meant that for each child with handicaps a written educational plan needed to be developed in consultation with a representative of the local educational agency (LEA), the teacher, parents or guardians, and whenever appropriate, the child, which

included (1) a statement of the current level of the educational performance of the child, (2) a statement of annual goals including short-term instructional objectives, (3) a statement of the specific educational services to be provided to the child and the extent to which the child will participate in regular educational programs, (4) the projected date for the initiation and anticipated direction of services, and (5) the designation of appropriate objective criteria and evaluative procedures for determining, at least annually, whether the instructional objectives are being met (Sec. 602(19)). In addition, it was stipulated that the state provide assurances that the LEA or intermediate educational unit would either establish or revise (whichever was appropriate) an IEP for each student with handicaps at the beginning of each school year, and that IEP would then be reviewed and if needed revised periodically but not less than annually (Sec. 614(a)(5)).

P.L. 94-142 also stipulated that procedural safeguards be guaranteed to students with handicaps and their parents or guardians (Sec. 615). These procedural safeguards included: (a) parental examination of all relevant records with respect to the identification, evaluation, and educational placement of the child and the right to obtain an independent evaluation of the child (Sec. 615(b(1)(A)); (b) procedures to protect the rights of a child whose parents or guardians are unknown or unavailable or who is a ward of the state (Sec. 615(b)91)(B)); (c) written prior notice to the parents or guardians whenever changes are proposed or refused by an educational agency in the identification, evaluation, or educational placement of the child, or the provision of a free appropriate education to the child (Sec.

615(b)(1)(C)); (d) this written notice must be in the native language of the parent (Sec. 615(b)(1)(D)); and (e) the opportunity to present complaints with respect to any matter relating to the identification, evaluation, or placement of the child, or the provision of a free appropriate education (Sec. 615(b)(1)(E)).

It was also stipulated that whenever a complaint was received regarding the above, the parents or guardians are entitled to an impartial due process hearing (Sec. 615(b)(2)). Impartiality is guaranteed by the provision that the hearing shall be conducted by someone not employed by or otherwise involved with the agency responsible for the education of the child. Any party to any hearing has (a) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to handicapped children, (b) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses, (c) the right to a written or electronic verbatim record of such hearing, and (c) the right to written findings of fact and decisions (Sec. 615(d)).

Anyone aggrieved by the findings and decisions rendered in hearings conducted by local districts may appeal to the state educational agency, which shall conduct an impartial review of the hearing and make an independent decision. If this independent decision is not agreeable to all concerned, any party has the right to bring a civil action in a state or U.S. district court. In any action brought under this provision the court shall receive the records of the administrative providings, shall hear additional evidence at the request of a party, and basing its decisions on the preponderance of the evidence, shall grant such relief as the court determines

appropriate (Sec. 615(e)(2)). While awaiting the decision, the child shall remain in the then-current educational placement, unless the state or local agency and the parents otherwise agree, or if applying for initial admission to public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed (Sec. 615(e)(3)).

In order to receive assistance under this Act, it was stipulated that the state meet certain eligibility requirements (e.g. timetable, procedural safeguards) (Sec. 612) and submit a state plan outlining the implementation of the provisions of the Act (Sec. 613). Taken together, the eligibility requirements and the state plan constituted the mechanism through which compliance to the intents of P.L. 94-142 was to be ensured; that is, assistance was tied to meeting these requirements. This linkage provided the Congress and the Office of Education an oversight capability.

In summary, with the provisions outlined above, P.L. 94-142 provided the first legislative mandate for (a) an "appropriate" education for <u>all</u> children with handicaps in the "least restrictive environment" (the language here moves from "fully" educate to "appropriate" education; "appropriate" implies "fully" while providing additional quality and flexibility, and the stipulation of education in the least restrictive environment was a major step toward true integration of children with handicaps in schools), (b) assuring the rights of children with handicaps and their parents, and (c) assuring the effectiveness of special education. Up to this point, appropriate educational services for all children with handicaps in a least restrictive environment were never mandated upon the states, but was

left open to their discretion. In addition, no procedural safeguards were ever stipulated for safeguarding the rights of children with handicaps, and although the establishment of NAC provided oversight on effectiveness, extensive evaluation was never supported.

In all, P.L. 94-142 remains the landmark piece of federal legislation in special education. Its enactment marked the legitimation of education as a right for children with handicaps, and it provided the funding necessary to redress the educational deprivation of such children. Its overarching purpose to provide an appropriate education for all children with handicaps in the least restrictive environment put forth a legislative mandate for the true integration of disabled children in "normal" schools. It was a comprehensive mechanism for ensuring equality of educational opportunity for all children with handicaps. The law also extended public school responsibility downward to age three and upward to age 21--covering the ages usually associated with transition. On June 17, 1977, in the midst of the writing of the regulations for P.L. 94-142, the Congress enacted P.L. 95-49, which reauthorized the discretionary programs authorized by the various parts of The Education of the Handicapped Act. P.L. 95-49 included the which reauthorization of centers and services, personnel training, special education model programs, research, and provisions for instructional media.

On December 2, 1983, P.L. 98-199 was enacted. Its main purpose was to reauthorize and amend the various discretionary programs. It changed the principal agency for administering special education policy from the Bureau of Education for the Handicapped to the Office of Special Education within the Office of Special Education and

Rehabilitative Services in the Department of Education. Regarding the administration of programs, P.L. 98-199 established a new provision for safeguarding the implementation of congressional intent. It stipulated that the "Secretary many not implement, or publish in final form any regulation prescribed pursuant to this Act which would procedurally or substantially lessen the protections provided handicapped children under [EHA] . . . except to the extent that such regulation effects the clear and unequivocal intent of the Congress in legislation" (Sec. 618). It also stipulated that of any regulations promulgated under the Act be submitted to the NAC and published in the Federal Register, thereby providing a means for public evaluation of all regulations affecting special education.

P.L. 98-199 amends the "evaluation" provisions of Part B (i.e., P.L. 94-142) by including, among other things, the stipulation that the Secretary publish an annual report on the progress toward providing a free appropriate education to all children with handicaps (Sec. 618 (f)(1)). Included in this report shall be "analysis and evaluation of the participation of handicapped children and youth in vocational education programs and services" (Sec. 618(f)(2)(D)).

Part C reauthorizes provisions for regional resource centers and services for deaf-blind children and youths and, in addition, research, innovation, training, and dissemination activities.

Part C also authorizes grants for postsecondary education programs (Sec. 625) and secondary education and transition services for youths with handicaps (Sec. 626). The purpose of grants to postsecondary education is for developing and adapting programs of postsecondary, vocational, technical, continuing education, or adult education to meet

the special needs of individuals with handicaps (Sec. 625(2)(A)), including the development of specially designed model programs. Funding for these grants was set at $5 million for FY 1984, $5.3 million for FY 1985, and $5.5 million for FY 1986 (Sec. 628(e)).

Grants to or contracts with institutions of higher education, SEAs, LEAs, or other appropriate agencies, including the agencies established under the Job Training Partnership Act (P.L. 97-300) were authorized in order to "strengthen and coordinate education, training, and related services for handicapped youth to assist in the transitional process to postsecondary education, vocational training, competitive employment, continuing education, or adult services (Sec. 626(a)(1)), and to stimulate the improvement and development of programs for secondary special education" (Sec. 626(a)(2)). Projects may include the following: "(1) developing strategies and techniques for transition to independent living, vocational training, postsecondary education, and competitive employment for handicapped youth; (2) establishing demonstration models for services and programs which emphasize vocational training, transitional services, and placement for handicapped youth; (3) conducting demographic studies which provide information of the numbers, age levels, types of handicapping conditions, and services required for handicapped youth in need of transitional programs; (4) implementing specially designed vocational programs to increase the potential for competitive employment for handicapped youth; (5) funding research and development projects for exemplary service delivery models and the replication and dissemination of successful models; (6) initiating cooperative models between educational agencies and adult service agencies, including

vocational rehabilitation, mental health, mental retardation, public employment, and employers, which facilitate the planning and developing of transitional services for handicapped youth to postsecondary education, vocational training, employment, continuing education, and adult services; and (7) developing appropriate procedures for evaluating vocational training, placement, and transitional services for handicapped youth" (Sec. 626(b)(1-7)). Funding for transitional services was authorized at $6 million for FY 1985 and $6.66 million for FY 1986 (Sec. 628(f)).

With the enactment of P.L. 98-199, the transition from school to work or postsecondary education of youths with handicaps became a legitimate policy concern within the educational jurisdiction of Congress. As with all past statutes concerning special education, the underlying values of the transition provisions of P.L. 98-199 are equality and integration. However, with the authorization of transition services, the scope of related services within the context of special education now encompasses post-public educational services. The overt purpose of this legislation is no longer confined to integration in schools, but includes integration into the community as well, and it marks a significant step in the history of special education as an attempt to assimilate students into the mainstream of American life. When viewed in the context of the history of federal special education legislation, the authorization of transition services can be seen as an evolutionary development toward achieving the overarching purpose of special education.

However, by expanding into the postsecondary educational arena, special education policy must be sensitive to, and provide provisions

for coordinating with, other service units that also affect transition, such as rehabilitation. The Congress recognized this requirement by stipulating that any applicant for funds to provide transitional services which is not an education agency should coordinate with the state education agency (Sec. 626(c)), and that various projects should, where appropriate, be coordinated with the programs developed under Section 311 of the Rehabilitation Act of 1973 as amended (Sec. 626(e)). This interaction between special education and rehabilitation has serious implications for the transition initiative which are explored in Chapter 4.

On October 8, 1986, the latest amendments to the Education of the Handicapped Act were enacted as P.L. 99-457. The purpose of this legislation was to reauthorize discretionary programs and to establish a multidisciplinary, interagency, early intervention program for infants and toddlers (Part H).

P.L. 99-457 also reauthorizes and expands transitional services and programs initiated by P.L. 98-199, such as grants to, or contracts with, educational agencies for developing and adapting postsecondary, vocational, technical, continuing, and adult education to meet the special needs of individuals with handicaps (Sec. 625). Funding for these grants and contracts was authorized at $5.9 million for FY 1987, $6.2 million for FY 1988, and $6.6 million for FY 1989 (Sec. 628(e)), compared with $6 million for FY 1985 and $6.66 million for FY 1986 authorized by P.L. 98-199.

The following new provisions were added to the provisions set forth in P.L. 98-199 (Sec. 626): (a) an additional purpose was included, to stimulate the improvement of the vocational and life

skills of students with handicaps to enable them to be better prepared for transition to adult life and services (Sec. 626(a)(3)); (b) projects assisted were expanded to include "conducting studies which provide information on . . . why handicapped youths drop out of school, developing special education curriculum and instructional techniques that will improve handicapped students' acquisition of the skills necessary for transition to adult life and services, and specifically designed physical education and therapeutic recreation programs to increase the potential of handicapped youths for community participation (Sec. 626 (b)(8-10))"; and (c) applications for assistance must include, besides the provision of direct participation of students with handicaps and parents in the planning, development, and implementation of projects as stipulated in P.L. 98-199, a description of the "procedures that will be used for coordinating services among agencies for which handicapped youth are or will be eligible" (Sec. 626(d)(2)).

Increased funding for transition services and programs was authorized at $7.3 million for FY 1987, $7.7 million for FY 1988, and $8.1 million for FY 1989 (Sec.628(f)).

The legislation is not specific in terms of who is to be served, the procedures for transition planning and service delivery, or who is responsible for service provision, allowing states and localities to develop a transition service delivery system best suited to their own needs and resources. It was the purpose of the widespread funding of model demonstration projects to enable the development and implementation of many diverse programs and practices, any of which could be adopted by other states and localities. Despite the lack of prescrip-

tive guidelines for the delivery of transition services, the enactment of these provisions stabilizes the legitimacy of transition as a policy concern in federal special education legislation.

Transition as a policy concern is a natural consequence of the evolution of special education legislation. From its beginnings in the Elementary and Secondary Education Act of 1965 to the enactment of P.L. 99-457 in 1986, the overarching purpose of federal special education legislation has been equality. Equality and full participation in adult life involves much more than attendance in an integrated public school setting during the school years. Employment, independent living, and continuing education have been identified as important domains of adult adjustment. As it became apparent that participation in public education did not assure full participation in adult life for students in special education, special education legislation began to address the broader issues associated with transition. It was recognized that without gainful employment and the opportunity to live independently within the community, equality in adult life was not accessible to many persons with handicaps. In its continuing effort to insure equality, special education legislation began to address the complicated area of transition.

One of the factors that makes transition complicated is that it represents the interaction of public and private sectors, federal, state, and local agencies, and numerous service delivery systems and funding structures. Although special education can be considered to operate in parallel and, one hopes, in interaction with the regular education system, both systems come under the jurisdiction of education in general, and all share the same underlying value of equality.

Transition involves the interaction of several systems: education, rehabilitation, labor, and income maintenance. The values and policies associated with these areas may not be compatible with the values underlying transition policy. Indeed, it is our argument that the value structures are not the same, and that their differences will cause problems in policy implementation and service delivery. A discussion of one possible area of conflict, federal disability policy, is presented in the next chapter.

# Chapter Three

# FEDERAL DISABILITY POLICY

For the many youths with handicaps, a successful transition into the labor force is contingent upon a successful transition from special education to the adult service delivery system. In very important respects the transition from school to work for these youths is mediated by federal disability policy.

In this section a brief overview of federal disability policy will be presented, followed by an overview of the legislative history of the dimension of disability policy that is most critical for transition -- vocational rehabilitation. It will be argued that rehabilitation policy has been driven by the value of efficiency, but that there exists a significant movement toward equality.

The federal disability policy and service delivery system is composed of four elements:

1. Income maintenance
2. Employment creation
3. Equal access
4. Vocational rehabilitation

Below is a brief discussion of each element.

## Income Maintenance

The cornerstone of federal disability policy is income maintenance. The purpose of income maintenance is the redistribution of income to individuals with disabilities in order to reduce the costs of disabilities that prevent competitive employment.

The current income maintenance program began in 1958 with the establishment of the Social Security Disability Insurance program

(SSDI). As its title implies, this program is an insurance based system that pays benefits only to those who have contributed sufficiently to the social security system. Before 1974 the only true income transfer programs in existence for individuals with disabilities were Aid to the Blind and Aid to the Permanently and Totally Disabled. However, these programs served a very small segment of the disabled population (Haveman, Halberstadt, & Burkhauser, 1984).

In 1974 the Supplemental Security Income (SSI) program was established. SSI became the primary vehicle for redistributing income to economically deprived individuals with disabilities, including individuals who were ineligible for SSDI on the grounds that they had made insufficient contributions to the social security system. The establishment of SSI shifted the federal disability system from an almost exclusively insurance-based program to a substantially welfare-based one.

The purpose of this welfare-based system is primarily to ameliorate, rather than correct, the costs of employment-impairing disabilities (Haveman et al., 1984). In other words, the purpose of income transfers is to reduce rather than eliminate the financial burden of disability.

This ameliorative response constitutes the underlying philosophy of federal disability policy. It is based upon the belief that a minimum income floor is a basic right, and if one is incapable of obtaining such an income, the government is morally obligated to provide it. Under this philosophy, the government is not obligated to intervene in the labor market to insure employment for all. Work is not a right; an income floor is. However, there does exist a

significant trend in other dimensions of disability policy that are moving it toward a right to work.

Employment Creation

In the past 15 years there has been a significant trend in federal disability policy toward employment creation. The affirmative action program within the federal government authorized by the Rehabilitation Act of 1973 began this trend, which has seen the emergence of work activity centers, supported employment, targeted job tax credits, and cooperative projects with industry, to name a few of the programs established to create employment opportunities for individuals with disabilities.

Whereas the main intent of federal disability policy is the reduction of the economic costs, both social and individual, of disability-related unemployment, there is a trend within the system to recognize the sociopsychological costs of unemployment.

Equal Access

Closely related to employment creation is equal access, which is based upon the civil rights model of equal opportunity. Beginning with Section 504 of the Rehabilitation Act of 1973 and continuing to the Civil Rights Restoration Act of 1988, individuals with disabilities have been protected by law from discrimination. The purpose of this protection is to insure that they have equal employment opportunities.

However, for many individuals with disabilities equal opportunity is not realistic if buildings and transportation are inaccessible. Legislation in the 1970s resulted in tremendous progress toward equal access to public facilities, and in the 99th Congress, incentives were authorized under the Tax Reform Act of 1986 for the removal of

architectural barriers to business establishments. Again, these developments signal a trend toward equality in federal disability policy.

Vocational Rehabilitation

In the context of a system primarily founded upon income redistribution, vocational rehabilitation is viewed as a cost-reducing mechanism (Haveman et al., 1984). It has been viewed historically by the federal government as a means to reduce the social costs of income maintenance by returning disabled workers to the labor force. At its core rehabilitation policy has been driven by the value of efficiency; it has been viewed as a mechanism for maximizing aggregate utility. The following quotation from the House Report on the authorization of P.L. 78-113, the Vocational Rehabilitation Act of 1943, illustrates this point:

> From the long range point of view there is no question that the problem of disability is a problem which can be met only by large expenditures of public money. The very fact that a person who is normally a breadwinner is disabled often raises a relief problem as to him and his dependents. From the point of view of both federal and state treasuries, and of the disabled persons themselves, experience has demonstrated that the best as well as the most economical approach for meeting the situation is an appropriate program of vocational rehabilitation. Where a disabled person may be made fit for employment, through rehabilitation, and become a tax producer, rather than a tax consumer, it would seem poor economy to deny him these necessary services. This is the

> dollars and cents justification of the program. [emphasis added] (House Report 78-613, 10762, p. 4)

In accordance with this value of efficiency a policy of eligibility was instituted:

> In order to limit the use of federal funds to cases where the individuals can be effectively rehabilitated and put into employment, [the Act] provides that the plan shall limit vocational rehabilitation to such classes of individuals as are approved by the Administrator. (p. 7)

Given the costs of vocational rehabilitation, only services to those individuals with high rehabilitation potential can be justified on the grounds of efficiency. The value of efficiency dictates an eligibility-based rehabilitation system.

Efficiency and eligibility are at the very foundations of rehabilitation policy. However, as discussed above, there exists a significant trend toward equality. The remainder of this section will be devoted to a historical analysis of rehabilitation legislation in an attempt to document this trend toward equality. It will be argued that two trends have been dominant in the history of federal rehabilitation legislation: (a) an expanding client base, and (b) movement from preparation to affirmative action (a movement from preparation for employment to employment creation). These trends are indicative of a movement toward equality.

A Brief History of Federal Rehabilitation Legislation

The national vocational rehabilitation program originated in the Smith-Fess Act of 1920, P.L. 66-236. The Smith-Fess Act was the first nonmilitary rehabilitation authorization enacted by Congress, and it

was one of the first grant-in-aid programs to the states. Its purpose was to provide for the "vocational rehabilitation of persons disabled in industry or any legitimate occupation and their return to civil employment" (Sec. 1). Persons with disabilities were defined as individuals incapable of remunerative occupation due to physical defect or infirmity caused by injury, accident, or disease. Rehabilitation was defined as "the rendering of a person disabled fit to engage in a remunerative occupation" (Sec. 2).

The significance of the Smith-Fess Act was threefold: (a) it established a national vocational rehabilitation program for civilians; (b) it established a grant-in-aid program to the states for the purpose of delivering rehabilitation services to individuals with disabilities; and (c) it provided the conceptual scheme for vocational rehabilitation that has endured to the present (i.e., providing rehabilitation services to prepare the individual with disabilities for competitive employment), although, as we will see, that basic scheme has been expanded.

The Smith-Fess Act stood relatively unchanged, with reauthorizations in 1924, 1930, and 1932, until World War II, which provided the stimulation for the next major step in the evolution of the vocational rehabilitation program.

In 1943 Congress enacted P.L. 78-113 to amend the Smith-Fess Act. This statute authorized two new and important provisions: First, medical, surgical, and other physical restorative services to eliminate or reduce an individual's disability were authorized, and the definition of rehabilitation was widened to include "any services" (emphasis added) necessary to render an individual with disabilities

fit to engage in remunerative employment. These provisions marked the first expansion of services to individuals with disabilities. Second, P.L. 78-113 authorized services to treat not only physical disability but disability caused by mental illness or mental retardation. Consequently, P.L. 78-113 laid the foundation for comprehensive rehabilitation services for persons with both physical and mental handicaps.

The next major development in the evolution of the vocational rehabilitation program was the enactment of the Vocational Rehabilitation Amendments of 1954, P.L. 83-565. The main thrust of these amendments was to develop and implement innovative improvements in state rehabilitation programs and to expand these programs to include groups and geographical areas previously underserved or not served at all. In order to facilitate innovative improvements in rehabilitative services, Congress authorized for the first time research, demonstration, and training projects. These provisions mark the beginning of a commitment to research and other activities that had the potential to improve rehabilitation services. In order to expand service delivery to include the underserved, Congress increased its financial commitment by increasing payments to the states for rehabilitation programs from 50% to 75% of the costs. This commitment to research and increased financial support made by the Vocational Rehabilitation Act of 1954 represented a major step forward in expanding and improving rehabilitation services.

Following the Vocational Rehabilitation Act of 1954, minor amendments were enacted in 1956 (P.L. 84-937), 1957 (P.L. 85-198 and

P.L. 85-213), 1959 (P.L. 86-70), and 1960 (P.L. 86-624). These amendments basically reauthorized the provisions of the Act of 1954.

The next major development in rehabilitation policy was the enactment of the Vocational Rehabilitation Act Amendments of 1965, P.L. 89-333. The purpose of the Amendments of 1965 was to assist in providing more flexibility in the financing and administration of state rehabilitation programs and to assist in the expansion and improvement of services and facilities, particularly for persons with mental retardation.

The major innovation of P.L. 89-333 was the authorization of grants for the construction of rehabilitation facilities and workshops (Sec. 12). These workshops and facilities were intended to expand training and employment opportunities for individuals with handicaps, and especially persons with mental retardation. By providing workshops and other facilities on a large scale, and staffing them with trained personnel (grants were also authorized to help with initial staffing), the number of clients served could be significantly increased.

In addition, grants were authorized for improving the training services delivered in workshops and other rehabilitation facilities (Sec. 13(a)), for improving the management of such facilities (Sec. 13(b)), and for providing technical assistance (Sec. 13 (c)). The establishment of workshops marked the beginning of a trend in rehabilitation policy from a focus only on preparation for employment to preparation plus actual employment or hands-on work experience.

Perhaps the most important feature of P.L. 89-333 was the authorization of grants "to meet the costs of planning for the development of a comprehensive vocational rehabilitation program in

each State . . . with a view to [make] vocational rehabilitation services available to all handicapped individuals in the State by July 1, 1975" (Sec. 4(a)(2)(B))." In an ideological sense, we have here the culmination of the trend to expand the client base. The Congress wrote into law the intention to provide services to all handicapped individuals; that was the goal. That intention is reiterated in various ways in subsequent legislation, emphasizing the need to reach the most severely handicapped and other underserved groups. However, that intention still remains a goal to be achieved rather than a reality.

The Vocational Rehabilitation Act as amended was reauthorized in 1967 by P.L. 90-99 for one year. In 1968 it was reauthorized again with amendments by P.L. 90-391, The Vocational Rehabilitation Amendments of 1968. Two important amendments were enacted by P.L. 90-391. First the states were authorized to "make contracts or jointly financed cooperative arrangements with employers and organizations" to establish projects "designed to prepare handicapped individuals for gainful employment in the competitive labor market under which handicapped individuals are provided training and employment in a realistic work setting" (Sec. 7(a)(1)(B)). This provision represents the next step in the continuing trend toward placing individuals with handicaps in competitive worksettings at a gainful wage. Here the emphasis is on placing individuals with handicaps in realistic settings for the purpose of better preparation and generalization to real work settings. This was the underlying purpose of workshops authorized under P.L. 89-333. However, in P.L. 90-391 a further step is taken in the movement toward providing preparation for competitive employment,

in that the work environment is not sheltered but is openly competitive and therefore realistic. The authorization of these projects was the first step into the actual employment arena and the first step in the direction toward affirmative action.

The second important amendment enacted by P.L. 90-391 was the authorization of funding to establish vocational evaluation and work adjustment programs for individuals with handicaps, including preliminary diagnosis of an employment handicap and the need for services, a comprehensive evaluation of pertinent individual and environmental factors to determine the nature and scope of needed services, and appraisal of the individual's work behavior and ability to develop occupational skills, work attitudes, work tolerance, and social and behavioral patterns suitable for successful job performance (Sec. 15(a)(4)(A-F)). These provisions mark the beginning of the individualization of rehabilitation services that culminates in the mandate for individual written rehabilitation plans stipulated in the Rehabilitation Act of 1973.

The next, and probably the most significant, development in the history of federal rehabilitation policy was the enactment of the Rehabilitation Act of 1973, P.L. 93-112, which replaces the Vocational Rehabilitation Act as the statutory basis of programs and services devoted to the vocational rehabilitation of handicapped individuals. It set forth a comprehensive plan to achieve 11 fundamental goals:

1. the establishment of the Rehabilitation Services Administration
2. comprehensive state service plans

3. evaluation of the rehabilitation potential of individuals with handicaps
4. development of rehabilitation methods for low rehabilitation potential individuals
5. construction and improvement of facilities
6. technical innovation
7. promotion and expansion of employment opportunities
8. personnel and training
9. client assistance
10. civil rights
11. evaluation of architectural and transportation barriers.

For the purpose of analysis the provisions enacted to achieve these goals are discussed in the order given.

1. The Rehabilitation Services Administration. P.L. 93-112 established a Rehabilitation Services Administration within the Department of Health, Education, and Welfare (Sec. 3). It was designated as the principal agency for carrying out the provisions of the Rehabilitation Act. The statutory establishment of the Rehabilitation Services Administration was strategically important, just as the establishment of the Bureau of Education for the Handicapped had been for special education, for two basic reasons: (a) the establishment of an administrative entity within the executive branch of the federal government provided a more sensitive and comprehensive oversight mechanism than state or congressional oversight alone, which increased the chances of better regulation and hence quality service; and (b) because a high percentage of legislation emanates from the executive branch, the establishment of an agency in

the executive branch devoted to rehabilitation significantly increased the chances of subsequent legislation that would be in tune with state and local needs.

2. State Service Plans. Central to all the goals of the Rehabilitation Act was the establishment of an administrative procedure for developing and implementing comprehensive state plans for vocational rehabilitation service delivery (Title I).

It was stipulated that service to individuals with severe handicaps should be the first priority. In spite of previous intentions, this specification was in response to the fact that rehabilitation services provided to this date were focused primarily on those with the greatest rehabilitation potential. In many cases this left the overwhelming majority of individuals with more severe handicaps either underserved or not served at all. The overarching purpose of the Rehabilitation Act was to reverse this trend by mandating services to individuals with the most severe handicaps as the top priority.

As a part of the comprehensive state plan it was stipulated that an individualized written rehabilitation program be developed for each individual with handicaps (Sec. 101 (9)). The purpose of the written program was to specify the "terms and conditions, as well as the rights and remedies, under which goods and services" would be provided (Sec. 102 (a)). The written program included long-range goals and intermediate objectives, a statement of rehabilitation services to be provided, the starting date and duration of services, and evaluation criteria. Annual review of the program was also stipulated. The requirement of individualized written rehabilitation programs had a

twofold purpose: (a) to tailor the rehabilitation program more closely to the individual's needs, and (b) to insure that the intents of Congress regarding rehabilitation service delivery to all handicapped individuals be met (H.R. 93-42, pp. 14-15).

3. Rehabilitation Potential. Closely associated with individualized written rehabilitation programs was the stipulation to evaluate the rehabilitation potential of individuals with handicaps (Sec. 103 (a)(1)). This provision was an attempt to tailor services more closely to the needs of the individual with handicaps.

4. Rehabilitation Methods. P.L. 93-112 authorized research, which included demonstration projects, to develop methods of providing rehabilitation services to individuals for whom a vocational goal was not possible or feasible, in order to improve their ability to lead a more independent and self-sufficient life (Sec. 103). This provision was in keeping with the overarching goal of the Act to reach persons with the most severe handicaps. The provision maintained the idea, however, that some persons were and would always be incapable of working.

5. Construction. Grants to assist in meeting the costs of construction of public or nonprofit rehabilitation facilities were reauthorized (Sec. 301). Grants to assist in the initial staffing of any public or nonprofit rehabilitation facility constructed after the enactment of the Rehabilitation Act were also authorized. Such grants would cover up to 75% of the costs of compensation of personnel for the first 15 months of operation (Sec. 301 (c)). This assistance (construction and staffing) was intended to facilitate expanded service delivery. It represented the continued attempt by Congress to increase

flexibility in meeting the rehabilitation needs of various underserved regions and populations.

6. Technical Innovation. Grants and contracts were authorized to pay part of the costs of projects for the purpose of planning and conducting research, demonstrations, and related activities which would have direct relevance to the development of methods, procedures, and devices to provide improved rehabilitation services to individuals with handicaps, "especially those with the most severe handicaps" (Sec. 202 (a)). Legitimate projects included a wide array of methods and procedures, from medical to social to architectural design.

In addition, the Act authorized the establishment of the following research centers: (a) Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of conducting coordinated and advanced research in rehabilitation, and for the training of professional personnel (Sec. 202 (b)(1)); and (b) Rehabilitation Engineering Research Centers for the purpose of developing innovative methods of applying medical technology, scientific achievement, and psychological and social knowledge for solving the problems of the rehabilitation of individuals with handicaps and for reducing environment barriers (Sec. 202 (b)(2)). These authorizations represented the continued and expanded commitment to rehabilitation research and the application of that research for the improvement of rehabilitation services for all segments of the handicapped population.

7. Employment Opportunities. The Rehabilitation Act of 1973 made specific and far-reaching steps toward affirmative action for the employment of individuals with handicaps, the first such action in the

history of federal rehabilitation legislation. An Interagency Committee on Handicapped Employees was established within the federal government to provide "a focus for federal and other employment of handicapped individuals, and to review on a periodic basis, in cooperation with the Civil Service Commission, the adequacy of hiring, placement and advancement practices with respect to handicapped individuals, by each department, agency and instrumentality in the executive branch of government, and to insure that the special needs of such individuals are being met" (Sec. 501 (a)).

In addition, it was stipulated that within 180 days after the enactment of the Rehabilitation Act, each department, agency, and instrumentality in the executive branch would submit to the Committee and Civil Service Commission an affirmative action program plan for the employment of individuals with handicaps (Sec. 501 (b)). Each plan was to be reviewed annually by the Commission to insure its continued adequacy. The Commission was also to develop, for recommendation to state agencies, policies and procedures for facilitating the employment of individuals with handicaps. In addition, the Commission was required to submit an annual report to Congress with respect to the success of the affirmative action program (Sec. 501 (d)).

It was also stipulated that all federal contracts in excess of $2,500 for the "procurement of personal property and nonpersonal services (including construction)" shall contain a provision stipulating that the contracting party "shall take affirmative action to employ and advance in employment qualified handicapped individuals" (Sec. 503 (a)). A due process provision was also included in that if any individual with handicaps believes he or she is being discriminated

against, he or she may file a complaint with the Department of Labor, who shall investigate and take action in accordance with stipulated laws and regulations (Sec. 503 (b)).

The above provisions represent the first significant affirmative action taken by the federal government for the employment and advancement of individuals with handicaps. It represents a major step in policy, in the sense that it expands rehabilitation services from preparation for employment to action that will insure employment. In this sense, the Congress realized that in order to increase the employment of individuals with handicaps, policy had to reach out into the employment arena via a carrot (contracts) and stick (compliance within and outside of government) approach. Preparation alone was not enough.

8. Personnel and Training. Grants and contracts were authorized to pay part of the costs (80%) of projects for training and other activities designed to increase the number of personnel trained to deliver vocational rehabilitation services to individuals with handicaps (Sec. 203). Increasing the number of personnel in the rehabilitation professions was an important prerequisite for expanding services and reaching underserved populations.

9. Client Assistance. The establishment of client assistance pilot projects dispersed throughout at least seven but not more than 20 geographical regions were authorized to provide counselors to inform and advise all clients of available benefits under the Rehabilitation Act and to assist, upon request, clients in their relationship with the various programs providing services to them under the Act. The purpose

of client assistance was to facilitate and insure the delivery of services to all eligible individuals.

10. Civil Rights. It was stipulated in the Rehabilitation Act that no individual could be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance solely by reason of his or her handicap (Sec. 504). This provision was an attempt by Congress to insure the rights of persons to all services available to them regardless of their handicapping condition or the severity of that condition. This provision not only had a profound effect on insuring access to rehabilitation services; it also profoundly affected access to educational services. The mandate of the Education for All Handicapped Children Act of 1975, P.L. 94-142, to provide a free, appropriate education to all children was based in part upon the civil rights mandate of P.L. 93-112.

11. Architectural and Transportation Barriers. An Architectural and Transportation Compliance Board was established for the purpose of evaluating existing approaches to architectural and transportation barriers confronting individuals with handicaps to develop alternative approaches, to enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities, and to study and develop solutions to existing environmental barriers impeding individuals with handicaps.

In summary, the Rehabilitation Act of 1973 is a major landmark in the evolution of rehabilitation services; it stands to this day as the statutory foundation of the rehabilitation service delivery system. The main thrust of the Act was to expand services and increase

administrative and financial flexibility in order to deliver rehabilitation services to all individuals with handicaps, especially those with the most severe handicaps. In addition, by explicitly stating the purposes of the Act, it clarified the nature and scope of rehabilitation services, thereby providing an unambigious foundation on the basis of which a coherent service delivery system could be implemented.

The provisions of the Rehabilitation Act of 1973 were reauthorized in 1974 by P.L. 93-516 and again in 1976 by P.L. 94-230. The next major development in the history of rehabilitation legislation was the enactment of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, P.L. 95-602. P.L. 95-602 amended the Rehabilitation Act of 1973, established a community service employment program, and established independent living rehabilitation services for persons with severe handicaps, among other things. A summary of the major amendments of P.L. 95-602 is presented below.

1. American Indian Vocational Rehabilitation Services. Grants were authorized for the governing bodies of Indian tribes located on federal and state reservations to pay 90% of the costs of vocational rehabilitation services for American Indians with handicaps residing on such reservations (Sec. 130). This provision was in keeping with the trend to serve all individuals with handicaps.

2. Research Amendments. A National Institute of Handicapped Research was established to promote and coordinate research with respect to handicapped individuals (Sec. 109). Its main functions were to: (a) disseminate information acquired through research to

organizations conducting rehabilitation research or providing rehabilitation services; (b) coordinate all federal programs and policies relating to rehabilitation research; (c) disseminate educational materials to public and private educational organizations concerning how the quality of life of individuals with handicaps could be improved, (d) conduct an educational program to inform the public about ways of providing for the rehabilitation of individuals with handicaps, including family and self-care; (e) conduct seminars and workshops concerning research advances; (f) keep the Congress informed with respect to the implementation of programs authorized by the Rehabilitation Act; and (g) create and disseminate reports on the profile of the population of persons with handicaps.

In addition, an Interagency Committee on Handicapped Research was established to help promote coordination and cooperation among federal departments and agencies conducting rehabilitation research programs (Sec. 109).

These provisions constitute an effort to insure coordinated research and training programs that would increase the probability of developing innovative rehabilitation services. They also represent an attempt to manage the research enterprise in order to increase the focus and hence creative power of the research enterprise.

2. Comprehensive Centers. The establishment of Comprehensive Rehabilitation Centers was authorized in order to provide a broad range of services to individuals with handicaps in one community location, including information, referral, counseling, job placement, health, educational, social, and recreational services.

4. Interagency Coordinating Council. An Interagency Coordinating Council was established in order to "maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the federal government responsible for the implementation of the provisions" of the Rehabilitation Act (Sec. 120). A central theme of P.L. 95-602 was coordination. The establishment of a coordinating council was a major step in redressing the potential lack of coordination that results from incremental planning in various units of government, and which can result in a service delivery system composed of competing and contradictory elements. The establishment of an Interagency Coordinating Council suggests that Congress recognized that the policy system was tending toward incoherence and that a comprehensive oversight mechanism was needed to insure that the system was coordinated.

5. Employment Opportunities for Handicapped Individuals. One of the most significant amendments enacted by P.L. 95-602 was the creation of a new Title VI of the Rehabilitation Act. Title VI was entitled the Employment Opportunities for Handicapped Individuals Act, and it established three programs whose purpose was to expand employment opportunities for individuals with handicaps: (a) community service employment pilot programs, (b) Projects with Industry, and (c) business opportunities for individuals with handicaps.

The establishment of community service employment pilot programs were authorized in order to promote "useful" opportunities for community service for individuals with handicaps who had poor

employment prospects (Sec. 611). Individuals were to be paid the minimum wage or the prevailing rate of pay for persons employed in similar occupations. The pilot programs were stipulated to provide services to publicly owned and operated facilities and projects, or projects sponsored by tax exempt organizations, not including religious organizations or political parties. These pilot programs were significant in the sense that they expanded employment opportunities to individuals with handicaps who were unlikely to find employment, and, by providing an initial employment experience, they were laying the foundation for future unsubsidized employment.

Agreements with individual employers were authorized to establish jointly financed projects to employ individuals with handicaps in realistic work settings (Sec. 621). This provision was an expansion of cooperative arrangements with business and industry originally authorized under P.L. 90-391. The projects authorized under P.L. 95-602 had three goals: (a) to provide individuals with training and employment in real work settings in order to prepare them for competitive employment; (b) to provide support services to help individuals continue in employment; and (c) to expand job opportunities through the development and modification of jobs to accommodate workers with handicaps, that is, the distribution of special aids and equipment, job placement services, and the modification of equipment used on the job.

In order to promote business opportunities for individuals with handicaps, grants to or contracts with such individuals were authorized for the purpose of establishing or operating commercial enterprises which would develop or market products or services (Sec. 622).

The three programs specified above expanded employment opportunities for the full range of individuals with handicaps. These programs continued the trend to move from preparation alone to a more active role in securing employment for these individuals. From this perspective, rehabilitation is not only preparation for employment but the actual creation of opportunity for individuals with handicaps.

6. Comprehensive Services for Independent Living. A new Title VII was added to the Rehabilitation Act for the purpose of providing comprehensive services to individuals whose handicaps are so severe that they do not have the potential for employment but may benefit from rehabilitation services which would enable them to live and function independently (Sec. 701). In order to provide such services grants were authorized to establish Centers for Independent Living (Sec. 711). Services offered by such centers would include the following: counseling (with respect to peers, evaluation, legal and finance, and referral), training in living skills, housing and transportation, health, maintenance, community group living arrangements, education and training for community participation, social and recreational activities, and attendant care and training, among other services.

The authorization of independent living services continues the trend started with the Rehabilitation Act to provide comprehensive services to those individuals with the most severe handicaps, and it also continues the trend of providing services to an expanded client base.

7. Developmental Disabilities. In addition to amending the Rehabilitation Act of 1973, P.L. 95-602 amended the Developmental Disabilities Services and Facilities Construction Act. These

amendments were entitled the Developmental Disabilities Assistance and Bill of Rights Act, Title V of P.L. 95-602.

The Congress found that over two million individuals with developmental disabilities live in the United States, that these persons often require lifelong services provided by many agencies in a coordinated manner in order to meet their needs, and that general service agencies and agencies providing specialized services to individuals with disabilities tend to overlook or exclude individuals with developmental disabilities. Consequently, the Congress authorized assistance to the states in order to provide services to individuals with developmental disabilities and to protect their legal and human rights.

Priority was given to those individuals whose needs could not be met by the Education for All Handicapped Children Act, the Rehabilitation Act, or other health, education, or welfare programs. Grants were authorized to establish model programs and demonstration projects, personnel training programs, and a system in each state to protect the rights of individuals with developmental disabilities.

The Developmental Disabilities Assistance and Bill of Rights Act continues the focus of rehabilitation policy of reaching traditionally underserved populations. In this case, provisions were made for service delivery to developmentally disabled individuals.

In summary, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, P.L. 95-602, continued and enlarged the three main trends of the history of rehabilitation legislation: (a) it increased the commitment to rehabilitation research by expanding its research provisions and by stipulating the need, and

the means, for insuring coordination in the research enterprise; (b) it continues the movement from a focus on preparation for employment to a focus on preparation plus affirmative action for enlarging opportunities for competitive employment for individuals with handicaps; and (c) it continues the attempt to provide services to underserved populations, especially the most severely handicapped and the developmentally disabled. By continuing and enlarging these trends, P.L. 95-602 stands as a major development in the evolution of federal rehabilitation policy.

The provisions of P.L. 95-602 were reauthorized through fiscal year 1983 by the Omnibus Reconciliation Act of 1981, P.L. 97-35. In turn, P.L. 98-221 reauthorized P.L. 95-602 through fiscal year 1986. Over $1 billion were authorized for each fiscal year, as compared to an average of $650 million authorized in 1965. Amendments refining the administration of the various programs and projects were enacted, among other minor amendments. In relation to the transition provisions enacted by P.L. 98-199, special demonstration projects were authorized to provide job training to prepare youths with handicaps for entry into the labor force (Sec. 136). It was stipulated that such projects be designed as cooperative efforts between local educational agencies, business and industry, vocational rehabilitation programs, and labor organizations. In conjunction with the transition provisions of P.L. 98-199, these projects represent an attempt at multi-agency delivery of services to a single population. This is significant in the sense that Congress recognized that the policies of many different units of government and private organizations affect the employment of youths with handicaps and that coordination among the various agencies

affecting their employment is the key to providing services that will lead to their transition into the labor force.

The next, and latest, development in the evolution of rehabilitation policy was the enactment of the Rehabilitation Act Amendments of 1986, P.L. 99-506, which reauthorized the Rehabilitation Act for five years. The most significant development in P.L. 99-506 was the authorization of supported employment services for persons with severe handicaps (Sec. 202(b), Sec. 402(b), and Title VI (Part C).

The authorization of supported employment services made integrated work opportunities available to a group of individuals who had long been considered unable to access and maintain gainful employment.

Grants were authorized to assist states in developing programs for training and time-limited post-employment services leading to supported employment for individuals with severe handicaps (Sec. 631). Grants were authorized for supported employment services under Title I, and in addition, supplementary grants to bolster the supported employment provisions of Title I were authorized under Title VI, Part C. This action is in keeping with the overall trend of providing services to persons with the most severe handicaps.

Conclusion

When viewed in its entirety, two major trends emerge in the history of federal rehabilitation legislation:

1. An expanding client base. Rehabilitation began with providing services to war veterans, then it moved into the civilian population with the enactment of the Smith-Fess Act of 1920, which provided rehabilitation services to those physically injured in industry. After World War II mental disability was included as a

legitimate handicap requiring vocational rehabilitation. The inclusion of individuals with severe handicaps as a first priority under the Rehabilitation Act of 1973 represents the latest step in this expansion.

2. Affirmative Action/Employment Creation. Beginning with P.L. 90-391, with significant enlargement in the Rehabilitation Act of 1973 and the Rehabilitation Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602), and continuing through the Rehabilitation Amendments of 1986, rehabilitation legislation has moved into the area of affirmative action. The notion of "vocational rehabilitation" has been redefined from preparation for employment to preparation plus affirmative action to expand the actual employment opportunities of individuals with handicaps. The effort has included affirmative action provisions, business opportunities, Projects with Industry, community service employment, and supported employment services.

These two trends in rehabilitation legislation are indicative of a significant movement toward equality. The continual expansion of the client base and significant employment creation steps along with equal access all signal the institutionalization of equality in vocational rehabilitation policy. However, still embedded in rehabilitation policy is the overarching value of efficiency. In the next section the interaction of special education and rehabilitation policy will be discussed in relation to transition. The interaction of equality and efficiency between and within special education and vocational rehabilitation has significant policy implications for transition.

# Chapter Four

## POLICY IMPLICATIONS IN A VALUE-CRITICAL ANALYSIS OF SPECIAL EDUCATION AND VOCATIONAL REHABILITATION LEGISLATION

The transition from school to adult services centers primarily upon an interaction between special education and vocational rehabilitation. The emphasis on interagency cooperative agreements with the transition legislation, federal regulations, and various state transition plans, primarily between special education and vocational rehabilitation agencies, indicates that coordination between special education and vocational rehabilitation is recognized as being extremely important for the transition initiative.

The need for interagency coordination can be interpreted in the following ways: with the enactment of transition legislation, the boundaries that have traditionally defined special education and vocational rehabilitation have become blurred. With respect to transition, the two systems are converging into one policy and service delivery system. However, with the convergence the basic values of the two systems may be in conflict.

As we have discussed, the value of equality has shaped the legislative history of special education. The special education movement was based upon a vision of equality fashioned by the civil rights movement of the early 1960s. The essence of this vision was equality of opportunity and integration into the mainstream of American life. As early as 1965, mainstreaming and due process were on the special education agenda as operating principles of equality. It took ten years before these operating principles were embodied into policy

in the form of legally mandated education services for children with handicaps.

The force behind this drive toward equality was the contention that education was a basic human right, that all children, regardless of any exceptional characteristic, were morally entitled to an appropriate education. This was, in essence, the civil rights vision; basic human rights were being denied to particular minorities, and these rights needed to be guaranteed by law. The moral entitlement to education needed to be transformed into a legal entitlement for children with handicaps.

Two court cases were instrumental in transforming the right to education into a legal entitlement: Pennsylvania Association for Retarded Children (PARC) v. Pennsylvania and Mills v. the District of Columbia (Levine & Wexler, 1981). The basic argument in these cases was that the state and the district were ignoring their constitutional obligations to provide an education to all children. If education was compulsory by state law, then, under the Due Process clause of the Fifth Amendment and the Equal Protection Clause of the Fourteenth Amendment, every child was legally entitled to an education. Education for all children with handicaps was a constitutional right.

Through these court decisions the value of equality was transformed from a moral to a legal right. These decisions provided a constitutional basis for the legislative mandate to serve all children with handicaps provided by P.L. 94-142. In terms of the value-critical approach, the transformation from a moral right (value of equality) to a legal entitlement to education (operating principle) has resulted in

a very large increase in those receiving a basic social good--education (outcome).

On the other hand, at the inception of vocational rehabilitation and continuing to underlie its policy is the value of efficiency, an overarching value of maximizing aggregate utility. As we have discussed, vocational rehabilitation has historically been viewed as a cost-reducing mechanism, as a way to reduce the public costs of income transfer to persons with disabilities. This value of efficiency manifests in the form of the operating principle of eligibility criteria. Eligibility for rehabilitation services is based primarily upon two criteria: (a) evidence of disability, and (b) rehabilitation potential. Considering the costs of vocational rehabilitation, it is more "efficient" to serve only those with reasonable employment potential than to include all individuals with disabilities, regardless of the severity of their handicapping condition. The outcome of this policy has been the rejection of hard cases in favor of easier ones, resulting in a limited segment of the handicapped population being served. Whereas an income floor is viewed as a moral entitlement, vocational rehabilitation is not. This system is summarized below:

| Value | Operating Principle | Outcome |
|---|---|---|
| Efficiency | Eligibility criteria | Select population served |

However, as we have discussed, since the enactment of P.L. 93-112, there has been a significant trend toward equality and the recognition of vocational rehabilitation as a basic right. In fact, P.L. 93-112 mandated that individuals with severe disabilities should not only be given equal consideration, but that service delivery to such individuals

should be the first priority. This policy has resulted in a significant increase in the number of individuals with severe disabilities receiving rehabilitation services. The percentage of individuals with severe disabilities being served has increased yearly since the implementation of P.L. 93-112. In FY 1982, more than 50% of those receiving rehabilitation services were severely disabled (H.R. 98-137, 13537, 1983). In terms of the value-critical approach, this development can be summarized as follows:

| Value | Operating Principle | Outcome |
|---|---|---|
| Equality | First priority | Increased service to persons with severe disabilities |

However, in spite of this trend toward equality and its resultant services to individuals with severe disabilities, the value of efficiency is still operative. Although the percentage of individuals with severe disabilities receiving rehabilitation services has increased yearly since 1974, the number of individuals with both severe and nonsevere disabilities receiving rehabilitation services has steadily declined (H.R. 98-137, 13537, 1983). Given that it costs two to two and a half times the amount to rehabilitate individuals with severe as opposed to nonsevere disabilities, in order to serve a large segment of both the severe and nonsevere population, a substantial increase in federal funding would have to be appropriated.

If funding is only moderately increased and services are targeted as a first priority to individuals with severe disabilities, then the percentage of those with severe disabilities being served will increase, but the total number of individuals receiving services will

decrease. As a result, approximately 50% of persons with disabilities eligible for services cannot be accepted into rehabilitation programs (H.R. 98-137, 13537, 1983). If Illinois is representative, it appears that the situation has worsened. Presently there are 14,000 eligible individuals on waiting lists for rehabilitative services in the state of Illinois.

Two earlier versions of P.L. 93-112 (H.R.8395 and S.7), the Act that initiated the equality movement in vocational rehabilitation, were vetoed by Richard Nixon (1972) primarily on the grounds that they were "fiscally irresponsible." The objection here was that a substantial funding increase necessary to support the equality provisions of the Bill would entail redirecting funds from defense, for example, or an increase in taxes, which Nixon vowed not to enact. In other words, even though substantially increased funding would help many individuals with disabilities, it would not maximize the aggregate utility of the citizenry. In Nixon's (1973) words, it would be "a massive assault upon the pocket books" of the people (p. 302). Thus, on the grounds of efficiency, the funding necessary to support full-scale equal access to rehabilitation services was not justifiable; it would not maximize aggregate utility.

Nixon later signed into law a Bill (H.R. 8070 becoming P.L. 93-112) that mandated equality but did not give it sufficient financial support, a Bill that was objected to by dissenters in Congress on the basis of its first priority provisions. The minority predicted that the equality provisions would have the effect of "significantly impairing the efficient delivery of services" (H.R. 93-244, 13020-2, p. 61). These dissenters recognized the conflict between equality and

efficiency inherent in P.L. 93-112, a conflict that would bar many individuals from adult services. Their solution however, was not an increase in funding, but a rejection of equality.

Service to efficiency continues to conflict with equality in vocational rehabilitation policy. For example, in his statement signing P.L. 99-506 into law (Rehabilitation Act Amendments of 1986), Ronald Reagan (1986) wrote: "Although I have reservations about the potential costs of this bill (H.R. 4021) for the Federal government, I support the important programs authorized by the Rehabilitation Act" (p. 1420). This statement embodies the conflict between equality and efficiency in rehabilitation policy. Equality is worthy of support, but at what price?

The result of this conflict is that a higher percentage of individuals with severe disabilities are receiving services, but the total number receiving services has steadily declined. From a value-critical perspective, this situation can be summarized as follows:

| Value | Operating Principle | Outcome |
|---|---|---|
| Equality | First priority | Increase in service to severely handicapped |
| Efficiency | Funding ceilings | Decrease in total number being served |

This situation has serious implications for transition. If 200,000 to 300,000 youths with handicaps exiting public education each year are in need of adult services, and approximately one in 20 adults eligible for services is receiving them, it is easy to see that many youths with handicaps will not receive rehabilitation services.

To date, federal transition policy has focused on the development of models for providing transitional rehabilitative services to youth with handicaps (34 CFR Part 376). Considering the number of youths with handicaps exiting public education each year, this commitment represents an incremental adjustment. A widespread transitional rehabilitation service effort reaching a significant portion of this population would require a massive federal commitment. (Under the political philosophy of the Reagan administration, primary financing of this initiative is viewed as a state responsibility.)

As special education and vocational rehabilitation interact, demands for meeting equality in the latter will increase. Clients in the special education system are accustomed to an enforced legal entitlement to social services. With the legitimization of transition as a Federal policy concern, clients will carry their expectations of legal entitlement into the adult service system, where a high percentage will meet waiting lists or inadequate services.

The courts have a prolific history of being major actors in securing and enforcing legal entitlements to social goods (Jensen & Griffin, 1984). As the transition initiative unfolds on the state and local levels, one likely scenario is a proliferation of litigation demanding the enforcement of the legal entitlement to rehabilitation services.

Widespread litigation would greatly strain the rehabilitation system. It would pose an unsolvable dilemma for state and local rehabilitation agencies: court mandates that are not achievable at current funding levels. Political and constitutional pressure would be

brought upon the Federal government to remedy this situation, eliciting two possible responses:

1. Congress authorizes a substantial increase in rehabilitation funding which allows a significant increase in the number of persons receiving adult services. This increase in funding coupled with a focus on transition results in a high percentage of youths with handicaps making a successful transition into adult services and eventually into competitive employment.

2. Owing to the impending budget crisis, the Congress cannot appropriate a substantial increase in funding. Instead it adheres to the present incremental strategy of model transition projects and limited dissemination. Very slow progress is made toward achieving the goal of widespread competitive employment for youths with handicaps. In this case the Congress sidesteps the courts for political reasons.

Conclusion

The task of insuring employment for youths with handicaps is complexified by the fact that it has two dimensions: individual and social. The individual dimension concerns the preparation of the individual for employment. This is a task of economic socialization performed by schools and adult service providers. The focus of the transition initiative has been primarily on this dimension. In fact, special education and vocational rehabilitation as a whole are primarily focused on individual preparation.

The second dimension is social. This dimension transcends the individual, encompassing the social structures that govern the labor market. The employment initiative of the 99th Congress was designed to impact this social dimension by removing work disincentives and by

creating incentives in the labor market for the increased employment of individuals with disabilities. The equal access/affirmative action provisions of earlier vocational rehabilitation legislation discussed above were also acting on this social dimension.

The primary focus of this monograph has been on the impact of federal policy on the individual dimension, although we have discussed the social dimension in terms of equality and affirmative action. Concerning both of these dimensions, we have found that there is a fundamental conflict in the transition policy system between the values of equality and efficiency. Regarding the individual dimension, it is likely that the courts will be mobilized to enforce the legal entitlement to equality in vocational rehabilitation and will override the conservative value of efficiency. Whether court mandates can be implemented, however, is another question.

Perhaps the Congress will have the political will to support equality in relation to transition. The more likely scenario, however, is that because of budgetary constraints and ideological commitments to efficiency, the Congress will not provide the funding necessary to support a widespread rehabilitative effort.

In this case the burden of transition will fall upon the school system. Given present conditions, reliance upon the adult service delivery system must be minimal. Youths with handicaps exiting public education must be adequately prepared to assume competitive employment. The achievement of this objective is contingent upon the re-examination of high school special education curricula. If transition to competitive employment is to be widespread among youths with handicaps exiting

public education, vocational education for such youths must become a priority.

On the social dimension, building bridges from school to work for youths with handicaps can be greatly enhanced by building bridges between institutions, special education, and employers. Greater involvement of employers must be sought and reinforced. Steps should be taken to inform employers of tax incentives for hiring individuals with handicaps.

In the face of the conflict between equality and efficiency in the transition policy system, special education must assume the responsibility for transition. For the vast majority of youths with handicaps, reliance upon the adult service system as an intermediary link in transition must be minimal, at least in the near future. Court action to secure adult services will probably increase to a large extent, but whether it can be translated into change in the short run is questionable given the political and fiscal climate. The battle for equality in education for children with handicaps has been won; the extension of this battle beyond the schools is just beginning.

## References

Bellamy, T., Rhodes, L., Bourbeau, P., & Mank, D. (1986). Mental retardation services in sheltered workshops and day activity programs. In F. Rusch (Ed.), Competitive employment: Issues and strategies (p. 257-271).

Braddock, D. (1987). Federal policy toward retardation and developmental disabilities. Baltimore: Paul H. Brookes.

Council of Chief State School Officers (CCSSO). (1986). Disabled students beyond school: A review of the issues. Washington, DC: Author.

Guthrie, J. W. (1980). An assessment of educational policy research. Educational Evaluation and Policy Analysis, 2(5), 41-55.

Harris & Associates. (1986). The ICD survey of disabled Americans: Bringing disabled Americans into the mainstream: A nationwide survey of 1,000 disabled people. New York: Author.

Hasazi, S. B., Gordon, L. R., & Roe, C. A. (1985). Factors associated with the employment status of youth exiting high school from 1979 to 1983. Exceptional Children, 51(6), 455-469.

Haveman, R. H., Halberstadt, V., & Burkhauser, R. V. (1984). Public policy toward disabled workers: Cross-national analyses of economic impacts. Ithaca, NY: Cornell University Press.

Jensen, D. N., & Griffin, T. M. (1984). The legalization of state educational policymaking in California. Journal of Law and Education, 13(1), 19-33.

Kernochan, J. M. (1981). The legislative process. Mineola, NY.

Levine, E. L., & Wexler, E. M. (1981). P.L. 94-142: An act of Congress. New York: Macmillan.

Lindblom, C. E. (1959). The science of muddling through. Public Administration Review, Spring.

McCloskey, H. J. (1984). Respect for human moral rights versus maximizing good. In R. G. Frey (Ed.), Utility and rights. Minneapolis: University of Minnesota Press.

Mithaug, D. E., & Horiuchi, C. N. (1983). Colorado statewide follow-up of special education students. Colorado Department of Education.

National Association of State Directors of Special Education (NASDSE). (1986). Severely handicapped youth exiting public education: Issues and concerns. Washington, DC: Author.

Nixon, R. M. (1972). Weekly compilation of presidential documents. 8(44), 1579.

Nixon, R. M. (1973). Weekly compilation of presidential documents. 9(13), 302.

Paris, D. C., & Reynolds, J. F. (1983). The logic of policy inquiry. New York: Longman.

Reagan, R. (1986). Weekly compilation of presidential documents. 22(43), 1420.

Rein, M. (1976). Social science and public policy. New York: Penguin.

Rusch, F. R., & Phelps, L. A. (1987). Secondary special education and transition from school to work: A national priority. Exceptional Children, 53(6), 487-492.

U.S. Department of Labor. (1979). Sheltered workshop study: Workshop survey, Vol. 1. Washington, DC: Author.

Wehman, P., Kregel, J., & Seyforth, J. (1985). Employment outlook for young adults with mental retardation. Rehabilitation Counseling Bulletin, 90-99.

Appendix

## Glossary of Key Federal Statutes Affecting Special Education and Rehabilitation

### Special Education

P.L. 81-874, established a grant program to the states to provide financial assistance to local educational agencies burdened by federal activities (e.g., military bases).

P.L. 89-10, The Elementary and Secondary Education Act of 1965, provided a comprehensive plan for redressing the inequality of educational opportunity for economically underprivileged children; it became the statutory basis upon which early special education legislation was grafted.

P.L. 89-313, The Elementary and Secondary Education Act Amendments of 1965, authorized grants to state institutions devoted to the education of children with handicaps; it was the first federal grant program specifically targeted for children with handicaps.

P.L. 89-750, ESEA amendments of 1966 (amends Title VI of P.L. 89-10), established the first federal grant program for the education of children with handicaps at the local school level, rather than at state institutions; it established the Bureau of Education for the Handicapped (BEH) and the National Advisory Council (NAC).

P.L. 91-230, The Education of the Handicapped Act of 1970 (amends Title VI of P.L. 89-750 which amended Title VI of P.L. 89-10), establishes a core grant program for local educational agencies (Part B) and authorizes a number of discretionary programs.

P.L. 93-380, The Education of the Handicapped Act Amendments of 1974, first mention of providing an appropriate education for all children with handicaps; reauthorizes discretionary programs.

P.L. 94-142, The Education for All Handicapped Children Act of 1975, remains the core funding mechanism for special education (a substantial increase in funding was authorized) and mandates an appropriate education for all children with handicaps, ensures due process rights, mandates education in the least restricted environment, mandates Individualized Education Plans, among other provisions; it is the foundation of special education.

P.L. 98-199, The Education of the Handicapped Act Amendments of 1983, reauthorizes discretionary programs, including the establishment of services to facilitate the transition from school to work of youths with handicaps; authorizes funding for demonstration projects and research for this purpose.

P.L. 99-457, The Education of the Handicapped Act Amendments of 1986, mandates services for toddlers with handicaps and expands transition services.

Rehabilitation

P.L. 66-236, The Vocational Rehabilitation Act of 1920 (the Smith-Fess Act), was the first non-military rehabilitation authorization enacted by Congress. Its purpose was to provide for the vocational rehabilitation of persons disabled while employed in a legitimate occupation in order to return them to competitive employment.

P.L. 78-113, The Vocational Rehabilitation Act Amendments of 1943, expanded rehabilitation services and included mental disability as a legitimate handicapping condition.

P.L. 83-565, The Vocational Rehabilitation Act Amendments of 1954. The main thrust of this Act was to develop and implement innovative improvements in state rehabilitation programs and to expand these programs to include groups and geographical areas previously underserved or not served at all.

P.L. 89-333, The Vocational Rehabilitation Act Amendments of 1965, established sheltered workshops primarily for individuals with mental retardation, gives rhetorical mention of services for all individuals with disabilities.

P.L. 90-391, The Vocational Rehabilitation Act Amendment of 1967, authorizes cooperative arrangements with employers for rehabilitative services and the establishment of vocational evaluation procedures to determine needed services for each individual.

P.L. 93-112, The Rehabilitation Act of 1973, replaces the Vocational Rehabilitation Act, providing a comprehensive plan for providing rehabilitation services to all individuals, irregardless of the severity of their handicapping condition, and it provides civil rights enforcement; it is the foundation of the current delivery system.

P.L. 95-602, The Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978 (amends P.L. 93-112), establishes a community service employment program, independent living rehabilitative services, and mandates services for the developmentally disabled including protection of their legal and civil rights.

P.L. 98-221, The Rehabilitation Act Amendments of 1983, authorizes demonstration projects in conjunction with P.L. 98-199 to provide transition services for youths with handicaps.

P.L. 99-506, The Rehabilitation Act Amendments of 1986, supported employment services for individuals with handicaps.

## Research Faculty at the University of Illinois

**Janis Chadsey-Rusch**
Assistant Professor of
Special Education

**Lizanne DeStefano**
Assistant Professor of
Educational Psychology

**Delwyn L. Harnisch**
Associate Professor of
Educational Psychology

**Laird W. Heal**
Professor of Special
Education

**Francesca Lundström**
Assistant Professor of
Special Education

**L. Allen Phelps**
Professor of Vocational
Education

**Adelle M. Renzaglia**
Associate Professor of
Special Education

**Frank R. Rusch**
Professor of Special
Education

**Robert E. Stake**
Professor of Educational
Psychology

# Institute Advisory Committee

## University of Illinois at Urbana-Champaign


**Dianne E. Berkell, PhD**
Department of Special Education
Long Island University
C.W. Post Campus

**George Fair, PhD**
Department of Special Education
University of Texas at Dallas

**Susan Hasazi, PhD**
Department of Special Education,
Social Work, and Social Studies
University of Vermont

**Dan Hulbert**
Career Assessment and
Placement Center
Whittier (CA) Union High
School District

**Gary Lambour, PhD**
Special Education Consultant
Connecticut State Department
of Education

**Joel Levy**
Young Adult Institute
New York City

**Robert L. Linn, PhD**
Department of Educational
Psychology
University of Colorado-Boulder

**Dennis E. Mithaug, PhD**
Department of Special Education
University of Colorado-
Colorado Springs

**Jeri Nowakowski, PhD**
Office of Educational Evaluation and Policy
Northern Illinois University

**Nick L. Smith, PhD**
School of Education
Syracuse University

**Carl Suter**
Department of Rehabilitation Services
Springfield, Illinois

**Craig Thornton, PhD**
Mathematica Policy Research
Princeton, New Jersey

**Ann Turnbull, PhD**
Bureau of Child Research
University of Kansas

**Timm Vogelsberg, PhD**
Developmental Disabilities Center
Temple University

**Paul Wehman, PhD**
Rehabilitation Research
and Training Center
Virginia Commonwealth University

**Claude Whitehead**
Employment Related Services
Washington, D.C.

**Russell Zwoyer**
Associate Dean for Research
College of Education
University of Illinois at Urbana-Champaign